husband and residence there, that was enough to establish the intention, and she was regarded as expatriated. *Jennes* v. *Landes,* 84 Fed. 73; *Ruckgaber* v. *Moore,* 104 Fed. 947; 31 Civ. Proc. R. (N. Y.) 310. That seems to have been the status of the law until the enactment of the statute considered in the instant case. This statute, in effect, makes mere marriage conclusive evidence of intent to transfer allegiance. No other act is necessary to establish that intent. This cannot be called an enforced transfer, for the doing of the act necessary to constitute change must be regarded as at will. Looked at from another view-point, the effect of this act is, at least as regards citizenship between this and other nations, to deprive the *feme covert* of her independent political status. It assimilates the political status of the wife to that of the husband. As her civil rights were once, for reasons of public policy, identical with those of her husband, so this statute, for reasons of international public policy, merges her political rights. That Congress has the power to do this would seem to follow as an incident to its general power to regulate international relations. The statute may well have been necessary to prevent foreign complications or to define international relations. And that was the view taken by the court. W. W. S.

THE REGULATION OF ADVERTISING SIGNS BY MUNICIPAL CORPORATIONS UNDER THE POLICE POWER.—In a recent Illinois case, *Haskell* v. *Howell,* 109 N. E. 992, the right of a municipal corporation, which had prohibited the sale of intoxicating liquor under the local option law, to pass an ordinance making the advertisement of intoxicating liquor, on or about any building or premises within the corporate limits, a nuisance, was denied. Haskell, the complainant, leased a lot of land in the city of Villa Grove from defendant Howell for a term of five years. A sign board was erected on this lot and a sign, "Demand Fecker Beer.—Brewed at Danville, Illinois," was placed thereon. The city of Villa Grove subsequently passed an ordinance, which in §7 prohibited individuals from displaying, maintaining, or posting on private property within the corporate limits any sign or advertisement of any wholesale or retail liquor dealer, and declared the same to be a nuisance. Howell, at the direction of the mayor of the city, tore down the bill board and sign, and both Howell and the city refused to permit the same to be again erected. The bill of complaint was filed for a specific performance of the contract of lease and for damages. By stipulation between the parties the only question for decision was the validity of §7 of the ordinance; the trial court upheld the ordinance and dismissed the bill, whereupon the complainant appealed to the Supreme Court, which reversed the decree below.

It was argued by the appellees that the power to pass such an ordinance is implied as incidental to the power to regulate and prohibit the sale of intoxicating liquors. The court declared this argument untenable, as there was no reasonable connection between the power to prohibit the sale of intoxicating liquor and the power to prohibit the advertising of

the same. The court held that the power to prohibit such advertisements, if its exists. must be express or implied from express powers granted. As no express power to pass this ordinance was given in the CITIES AND VILLAGES ACT, the power to pass the ordinance must be an implied police power which could be exercised to protect the public health, the public safety, the public morals, or the public welfare. It was decided that under the police power these advertisements could not be regulated any more than could those of other articles of lawful manufacture such as tobacco, Coca-Cola, or chewing gum, which, like intoxicants, are offensive to many people. This beer sign could not be prohibited as a nuisance against public morals.

If this ordinance can be supported, some substantial ground must be found to justify its passage as a measure tending to protect the public morals. Some light may be thrown on the question by a review of state action under its police power in the suppression of lotteries. In the New York State Constitution lotteries were prohibited and the legislature, in order to carry out the prohibition, made it a misdemeanor to publish an account of an illegal lottery, game, or device. Under this statute a person was indicted for publishing in a newspaper an account of a lottery which was to be drawn in Louisiana. It was contended that the statute was a denial of liberty of the press, which was guaranteed under the state constitution, and therefore unconstitutional. The court said, "Since lotteries are regarded as public evils, in their nature so injurious as to require express constitutional prohibition, there can hardly seem to be a doubt that laws in aid and execution of the provision of the constitution cannot properly be pronounced by the courts repugnant thereto and therefore void." *Hart* v. *People,* 26 Hun 396. In *Charles* v. *People,* 1 N. Y. 180, a conviction was sustained for publishing an account of a lottery which was to be drawn in the District of Columbia. The court held that the statute applied to lotteries which were not authorized by the laws of New York and all other gaming lotteries although they may be authorized by the laws of other states. In *Commonwealth* v. *Hooper,* 22 Mass. 42, it was held that the drawing of a lottery was against the morals of the people of the state and a statute passed to prohibit the advertisement of lotteries was a proper police measure.

It is submitted that the same application can be made in this case. The city of Villa Grove had acted under the local option law and a majority of the voters had decided that the sale of intoxicating liquor should be prohibited. The court in *Purity Extract & Tonic Co.* v. *Lynch,* 226 U. S. 192, said "It is also well established that, when a state exerting its recognized authority undertakes to suppress what it is free to regard as a public evil, it may adopt such measures having a reasonable relation to that end as it may deem necessary in order to make its action effective." The fact that the public morals of the community favored the prohibition of the use and sale of intoxicating liquor cannot be doubted. Having enacted a law which prohibited a public evil, as the people believe, there should be a power to make the prohibition effective, in so far as the

public welfare is affected. To sustain a police regulation which declares that an advertisement of intoxicating liquors within local option territory is a nuisance, the court could follow the lead given in the cases cited in regard to publishing an advertisement of a lottery. The same principles should apply if the danger to the public morals can be shown.

In the opinion in the principal case the court refers to *City of Carthage* v. *Munsell,* 203 Ill. 474, where an ordinance prohibited the sale of intoxicating liquor and also provided that a delivery of a shipment of liquor by a carrier to a consignee should be a misdemeanor. The ordinance was held void. In this case the classification of nuisances as outlined in *Laugel* v. *City of Bushwell,* 197 Ill. 20, was followed. The court held that the sale of intoxicating liquor was included in that class of things which are not nuisances but which may become so by reason of their locality, surroundings, or manner in which they are managed, conducted, etc. The court said, "There is nothing to show that in the method of delivery or in the manner of conducting the business there was anything that could be said to be offensive to the public morals or good order, or could in any way tend to disturb anybody in his tranquility of mind, health, or body, safety or right of property. In the absence of such a showing it cannot be successfully contended that such a business or transaction may be declared to be a nuisance." It is submitted that the ordinance was held void because of the failure to prove the danger to the public morals, as a justification for such a police ordinance. If this deduction is true then the decision would have little weight as bearing upon the principal case.

If it be conceded that the prohibition of liquor advertisements may properly be included within that class of nuisances mentioned above, then the court has the right to decide whether or not the particular police regulation conserves the public health, the public morals or the public welfare, but in doing so the court should be guided by the public opinion of the community. 20 CASE AND COMMENT 308. "In a free country where the government is by the people through their chosen representatives, practical legislation admits of no other standard af action, for what the people believe is for the common welfare must be accepted as tending to promote the common welfare, whether it does so in fact or not. Any other basis would conflict with the spirit of the constitution, and would sanction measures opposed to the republican form of government. While we do not decide, and cannot decide, that vaccination is a preventative of small-pox, we take judicial notice of the fact that it is the common belief of the people of the state, and with this fact as a foundation, we hold that the statute in question is a health law, enacted in a reasonable and proper exercise of police power." *Veimeister* v. *White,* 179 N. Y. 235; cited with approval in *Jacobson* v. *Massachusetts,* 197 U. S. 1.

Under such a consideration as this, it is submitted that a court might well find, in a similar case, that an ordinance prohibiting a liquor advertisement is a proper exercise of the police power to protect the public

morals. The fact that the people of Villa Grove believe that the sale of intoxicating liquor is a public evil, together with their action in passing this ordinance, should make it apparent to the court that the public morals were endangered, as the people believe, by this kind of advertising. "In doubtful cases where things may or may not be a nuisance, depending on a variety of circumstances requiring judgment and discretion on the part of the town authorities in exercising their legislative function, under a general grant of power, * * * * their action under such circumstances would be conclusive of the question." *North Chicago Ry. Co.* v. *Lake View,* 105 Ill. 207. It is submitted that the ordinance was a proper police regulation passed to protect the public morals. Another question remains, was the police regulation, as thus justified, reasonable?

The opinion in the principal case does not aid very much in working out an answer to this question. To place advertisements of intoxicating liquor in the same class with advertisements of chewing gum or Coca-Cola, is not a fair classification, especially in view of the fact that the sale of intoxicating liquor is prohibited in the community. "With the wisdom of the exercise of that judgment the court has no concern; and unless it clearly appears that the enactment has no substantial relation to a proper purpose, it cannot be said that the limit of legislative power has been transcended. To hold otherwise would be to substitute the judicial opinion of expediency for the will of the legislature, a notion foreign to our constitutional system." *Purity Extract & Tonic Co.* v. *Lynch,* supra. It cannot be said that there was no reasonable ground for the enactment of this ordinance in view of the fact that the city of Villa Grove considered this a measure which would aid the prohibition of the sale and use of intoxicating liquor. It is submitted that the ordinance was passed to protect the public morals and was a reasonable measure adopted to secure the end sought. R. E. R.

CONSTRUCTIVE TRUST ARISING FROM BREACH OF PAROL CONTRACT TO PURCHASE LAND FOR ANOTHER.—In the case of *Harrop, et al. v. Cole, et al.* (N. J. 1915), 95 Atl. 378, the Court of Chancery of New Jersey took a definite stand in favor of establishing a constructive trust, on behalf of a principal, in land purchased by an agent under a parol contract to do so and paid for by the agent's own money. The agent in this case while bound in confidence to purchase for complainant, violated his duty, purchased the land with his own money and took a deed thereof to himself. Upon a bill in equity the court held in favor of the complainant, and decreed that a trust in the lands be established and that defendant execute the trust by conveying the land to complainant upon payment of the price.

The question has been litigated many times and the result is a confusing mass of decisions which may be grouped into two lines of authorities. The case that seems to be regarded as establishing the rule for one of these lines is the English case of *Bartlett* v. *Pickersgill,* 1 Eden, 515, cited in 1 Cox 15, 4 Burr. 2255. The principle of law laid down in that decision is